

LEGAL SERVICES CORPORATION STATE PLAN

STATE OF MAINE

I. INTRODUCTION	1
II. BACKGROUND ON THE STATE PLANNING PROCESS IN MAINE	2
III. SPECIFIC STATE PLANNING INITIATIVES	Y.YYYYYYYYYYYY..11
A. Intake, Advice and Referral	11
B. Technology	16
C. Access to the Courts, Self-Help and Preventive Education	20
D. Coordination of Legal Work, Training, Information and Expert Assistance	YYY24
E. Private Attorney Involvement	25
F. Resource Development	29
G. System Configuration	YYYYYYYYYYYYYYYYYYYYYYY 31
H. The Future	YYYYYYYYYYYYYYYYYYYYYYYYYYY 32

I. INTRODUCTION

Until 1990, civil legal service planning was chiefly organized by the legal service providers themselves. The report of the Maine Commission on Legal Needs on May 1, 1990 represented a major shift in this approach, recognizing that the system of justice for low-income Mainers had many stakeholders, each of who had an important role to play.

Immediately following the release of the report, the Maine Bar Foundation assumed a leadership role in planning, creating various mechanisms to specifically address and incorporate the views of the provider organizations, the private bar, the courts, the legislature, the executive branch and the general public. That work was given additional momentum by the 1993 Report of the Commission to Study the Future of Maine's Courts, which addressed access to justice among other issues and which created its own Implementation Committee within the Court system.

Much of the groundwork for comprehensive state planning around legal services in Maine had been solidly laid by 1995, when the Corporation issued a formal call for planning on a statewide basis. The experience and success of Maine's prior efforts have been an advantage in tackling the most recent challenges. The ongoing support provided by the Maine Bar Foundation, the Maine State Bar Association, the Maine Trial Lawyers Association, and the wide range of individuals drawn from the Maine Congressional delegation, the State Legislature, the Executive branch, the private bar, the business community and the legal service providers has been critical in both those early efforts and in the new initiatives.

However, the primary factor in the success of our state planning process over the past three years has been the commitment of the State and Federal judiciary, who were willing to bring both the moral force of their office and their own persuasive powers to bear on the work at hand. The personal commitment of Maine's Chief Justice Daniel Wathen, State Supreme Court Justice Howard Dana, Jr. and Senior Circuit Judge Frank Coffin of the First Circuit has ensured that our civil justice system remained strong and effective throughout a period of great change.

Nan Heald, the designated Maine contact for LSC state planning purposes since 1995, has prepared this report. However, a number of individuals and participants in the State Planning process have assisted in the preparation of this report.

II. BACKGROUND ON THE STATE PLANNING PROCESS IN MAINE

Civil legal services in Maine: There are over 300 legal service providers in the United States; the majority provide assistance within a relatively small geographic area. In marked contrast, Maine's five providers of civil legal assistance are generally statewide in scope:

Pine Tree Legal Assistance, Inc. began operations in 1967. Pine Tree provides free legal assistance to individuals whose household incomes are at or below 125% of the federal poverty guidelines and who need assistance with civil legal problems. Pine Tree is Maine's largest and oldest legal services provider; it is also the LSC recipient of grants to provide basic legal services, as well as services to migrant farmworkers and Native Americans in Maine. Pine Tree also receives funding from a variety of other funders. Pine Tree currently operates offices in Presque Isle, Bangor, Augusta and Portland, and maintains outreach offices in Machias and Lewiston.

Legal Services for the Elderly (LSE) began operations in 1974. LSE provides free legal assistance to individuals age 60 or over. LSE receives funding from the federal Administration on Aging as well as the State Bureau of Elder and Adult Services and a variety of other funders. LSE currently operates offices in Presque Isle, Brewer, Augusta and Portland.

Volunteer Lawyers Project began operations in 1983. It was created to utilize the *pro bono* contributions of attorneys around Maine and is operated by Pine Tree Legal Assistance for the Maine Bar Foundation. Because Pine Tree utilizes LSC funds in the operation of the VLP, it is also subject to the LSC restrictions on services. VLP maintains one office in Portland, but access to its services is supported by statewide toll-free telephone numbers.

Maine Equal Justice Project and the Maine Equal Justice Partners. These entities were created in 1996 as a result of state planning to insure continued access to legal services for low-income individuals who could no longer be served by Pine Tree Legal Assistance as a result of new LSC restrictions. MEJProject provides legislative advocacy for individuals with household incomes at or below 150% of the federal poverty guidelines; MEJPartners provides administrative advocacy, community education and impact litigation support for the same client population. Both MEJPs share an office in Augusta.

Cumberland Legal Aid Clinic began operations in 1971 as a part of the University of Maine School of Law, with a dual mission of providing legal assistance to low-income individuals with civil and criminal needs. The Clinic provides services from one office in Portland to low-income residents within roughly a one hour driving time radius from Portland, including Cumberland County, Lewiston, Bath and northern York County.

Early planning efforts: Both Pine Tree Legal Assistance and Legal Services for the Elderly conduct regular needs assessments of their client communities, in order to insure that their services remain focused on the most pressing legal problems facing their client populations. All of the providers also engage in strategic planning for their internal needs from time to time, and periodic outside appraisals of their work are conducted by various funders and other entities. However, there was little regular communication between the legal service providers until the formation of the Maine Commission on Legal Needs under the auspices of the Maine Bar Foundation, the philanthropic wing of the organized bar in Maine and the entity administering the State's IOLTA program.

The Maine Commission on Legal Needs: Made possible by funding from the newly created IOLTA program in Maine, the Commission set as its goal a statewide needs assessment of low-income individuals with civil legal problems. It was hoped that the Commission would create a definitive public record of the work of legal services providers in Maine, and the extent to which they were able to meet the need for high quality free legal assistance. One of the first such studies done in the country, it had a profound impact on Maine's planning for legal services.

Chaired by the late Senator Edmund S. Muskie and including commissioners drawn from the Legislature, the Courts, the private bar and the low-income client community, the Commission conducted a series of eight public hearings around Maine in 1989, and a telephone survey of 500 low-income households in order to better understand the relationship between poverty and access to justice in Maine. The Report issued in May of 1990, found that "the legal services that are available to the poor are wholly inadequate to meet the need." Chairman's Preface, Executive Summary. Moreover,

The most basic conclusion of the Study is that even with the maximum

commitment of the private bar to unpaid *pro bono* legal representation of the poor, the total legal needs of the poor can only be met by major increases in the number of paid attorneys employed by statewide legal services providers and the addition of necessary supporting staff and facilities. Executive Summary, at p. 14.

The Commission's Report highlighted problems in a number of areas, including coordination between the providers, rural access to legal services, the limited intake capacity of the VLP, public confusion or lack of information about available services, the role of *pro bono* attorneys, and the need for courthouse assistance with basic court forms and procedures. The Report included a specific Action Plan with recommendations directed at national leaders, Maine's Governor and Legislature, the Supreme Judicial Court, the legal services providers, the private bar, the Maine Bar Foundation and the University of Maine School of Law.

In the wake of the Report's release on Law Day in 1990, an implementation committee was formed to insure that the recommendations would be addressed. Until his death in March of 1996, Senator Muskie returned to Maine every Law Day to provide an updated report on the status of those recommendations. While subsequent funding reversals exacerbated the lack of legal services staff available to meet the needs defined in the Report, many of its recommendations had been implemented by the end of 1995:

- Courthouse assistance projects to assist *pro se* litigants in family law proceedings were established by Pine Tree's Family Law Project in 1991 and maintained by Pine Tree and private legal secretary associations with law-firm support in several courthouses around Maine.

- The voluntary IOLTA program was converted to an "opt out" program increasing participation around the State;

- Pine Tree began a judicare program in Washington County to insure that clients would have access to local counsel after its Machias office was closed;

- Several providers acquired TDD equipment and corrected other potential barriers to access in their local offices;

- The Volunteer Lawyers Project added additional incoming lines and a second toll-free number to improve access;

- CLE programs in areas significant to *pro bono* representation were offered by the Maine State Bar Association free of charge to attorneys willing to take VLP cases;

- The Maine Trial Lawyers Association entered into formal agreements with both Pine Tree and LSE regarding co-counseling of cases and other forms of support from its attorneys;

- The Legal Aid Committee of the Maine State Bar Association recruited private attorneys to assist low-income group clients and organizations needing legal assistance in incorporation and related matters from various sections within the MSBA;

- The number of for-credit clinical programs at the Law School was expanded with a three-year Department of Education grant;
- A three-year Rural Access Project paired attorneys from Pine Tree and LSE in providing legal services throughout a rural area in western Maine, in order to test whether "circuit riding" was an effective way of increasing access to assistance. (A subsequent evaluation concluded that it was not.)
- A "Hotline" project was established at LSE in 1992; it was the only service delivery model used in the Rural Access Project that significantly increased access to legal services in rural areas.

The Commission to Study the Future of Maine's Courts: In 1990, the Maine Legislature passed "An Act to Implement the Recommendations of the Court Jurisdiction Study" establishing a statewide commission to study the future of Maine's Courts. By statute, Commissioners were drawn from all levels of the state and county court system, the legislature, private bar, law school and legal service community. The Commission began its work in late 1990, with the formation of several task forces, including one on "Access to Justice" in keeping with the legislative mandate to examine "any recommendations of the Maine Commission on Legal Needs." Chapter 891, Section B-5 (8) (1990).

The Futures Commission also conducted public hearings and surveys of the public, although more limited than those conducted in 1989 by the Legal Needs Commission. Under the chairmanship of retired Maine District Court Judge Harriet Henry, the Commission's final report included several specific recommendations which built on the work of the Legal Needs Commission. The final Report was issued in February of 1993, and contained an "Action Plan" listing over 115 specific recommendations. A Futures Implementation Committee was formed to pursue implementation under the auspices of the Judicial Council. Among the "access to justice" recommendations implemented by the end of 1995 were:

- Legislation requiring that qualified interpreters and signers be provided in court and administrative proceedings where needed;
- A Court Administrative Order making a recipient of public benefits presumptively eligible for an affidavit to proceed *in forma pauperis*;
- Expansion of alternative dispute resolution programs in several areas of the State, available to mediate in disputes involving low-income individuals;
- Internal court teams addressing the needs of *pro se* litigants in family law, protection from abuse and protection from harassment proceedings, as well as review of court forms;
- Formation of a court committee to study the creation of a non-adversarial family law forum;

The LSC Directive for a State Plan for Legal Services in Maine: In the

summer of 1995, LSC President Alexander Forger issued a call for each State to develop a plan responding to the anticipated changes in legal services delivery in the wake of Congressional plans to dramatically reduce legal services funding.

In September 1995, Chief Justice Wathen of the Maine Supreme Court took a leadership role in calling for a daylong conference to address the impact of anticipated changes in the funding and delivery of legal services in Maine. The Presidents of the Maine Bar Foundation and the Maine State Bar Association joined him in sponsoring a "Forum on the Future of Legal Services" at the Maine State House in Augusta. The list of attendees included leaders of the State and Federal court in Maine, the private bar, the State Legislature, the Executive branch, and the legal service community. Intended to represent the "stakeholders" in Maine's justice system, this Fall Forum was designed to create a strategic plan for preserving access to civil legal justice in Maine.

Among the challenges discussed at the forum were: (1) federal funding reductions and restrictions at Pine Tree Legal Assistance and the Volunteer Lawyers Project; (2) the impact of state budget cutting and downsizing at Legal Services for the Elderly; and (3) the permanent loss of federal Department of Education funds to the University Law School's Legal Aid Clinic. At the conclusion of the daylong meeting, the assembled body had generated a host of innovative ideas and agreed that a new planning structure was needed to insure that access to justice would remain available for Maine people left vulnerable by these pending changes.

A New State Planning Structure: By the conclusion of the first Fall Forum, it was clear that a new entity was needed to take responsibility for coordinating and directing the various projects contemplated. Following the Forum, Chief Justice Wathen convened key leaders and participants and created such an entity in the "Justice Action Group" (JAG) an *ad hoc* group with staff support from the Maine Bar Foundation. The focus of the JAG was to provide oversight and guidance to the task forces in the State Planning process. The original membership of the JAG included:

Senior Circuit Judge Frank M. Coffin, Chair
Chief Justice Daniel Wathen, Maine Supreme Court
Justice Howard Dana, Jr., Maine Supreme Court
President, Maine Bar Foundation
President, Maine State Bar Association
Legislative Representative (State Senator and Judiciary Committee Chair Sharon
Treat)
Board Representative, Pine Tree Legal Assistance
Board Representative, Legal Services for the Elderly
Law School Representative

By letter dated October 31, 1995, Judge Coffin wrote to LSC President Alexander Forger to

advise him of the creation of JAG and the other Maine activities related to the state planning process.

To ensure that the momentum generated by the Forum would be maintained, Chief Justice Wathen subsequently created the “Legal Services Response Team” (hereinafter LSRT) to support and assist the task forces in their work. In the first year of its operation, Regional Court Administrator J. David Kennedy chaired the group. Following his resignation in late 1996, Portland attorneys Kathryn Monahan Ainsworth and William Kayatta assumed responsibility as co-chairs of the group. The LSRT membership was originally constituted as follows:

Executive Director, Pine Tree Legal Assistance
Executive Director, Legal Services for the Elderly
Clinic Director, Law School Clinic
Project Director, Volunteer Lawyers Project
Executive Director, Maine Bar Foundation
Representative, Maine State Bar Association
Representative, Maine Bar Foundation

Later, representatives of a small Maine law firm and of the Maine Equal Justice Project/Partners would be added to the LSRT membership.

Most of the ongoing work of the original Fall Forum and Fall Forum II, held the following year, was conducted by task forces, whose membership and charge was developed by JAG with input from LSRT. In the first year, seven task forces were established to conduct the “hands-on” work necessary to construct a long-term statewide plan to address future needs.

Task Force on Bar Rule Changes, to study and propose changes in bar rules to facilitate the provision of *pro bono* services and *pro se* initiatives. This Task Force was subsequently merged with the Task Force on Court and Administrative Reform. Its first chair was former Law School Dean Kinvin Wroth. Bangor attorney William Devoe took responsibility for this Task Force after Dean Wroth’s resignation;

Task Force to Create New Structures, to address the impact of pending service restrictions on Pine Tree Legal Assistance and the Volunteer Lawyers Project, to maintain access to justice for low-income individuals who would no longer be able to rely on Pine Tree and the VLP for that assistance. This Task Force was chaired by Law School Clinic Director Michael Mullane and had completed its work before the end of 1995.

Task Force to Coordinate/Expand Services of Private Lawyers and Students, to develop and propose ways to expand and enhance *pro bono* services. This Task Force was co-chaired by Portland attorney William Harwood and Bar

Harbor attorney Douglas Chapman in its first year. It then evolved into the Task Force on Pro Bono, primarily directed by Bill Harwood and was active throughout 1997 and 1998.

Task Force on Court and Administrative Reform, to offer solutions to reduce barriers to access in the judicial and administrative systems. As noted above, this Task Force was combined with the Task Force on Bar Rule Changes.

Task Force on Coordination/Effective Service Delivery within Resources, to propose ways to enhance effective delivery of services offered by Maine's legal service providers. This Task Force was chaired by Ellsworth attorney Barry Mills and was active in 1996; much of its work was then taken up by the "Coordinated Intake" working group, starting in 1997;

Task Force on Private Fundraising, to examine and propose methods of conducting private fundraising and resource development for legal services. This Task Force was chaired by Portland attorney Susan Hunter and was active in 1996.

Task Force on the Legislature, to develop and propose state legislative initiatives that will enhance access to civil legal services. Corporate attorney Jill Duson originally chaired this Task Force and then by Augusta attorney Charles Soltan; it was active in both 1996 and 1997.

Following Fall Forum II, three new task forces were created:

Task Force on Information and Technology, to assess the ways in which technology could assist the delivery of legal services. Chaired by Portland attorney Jim Erwin, the task force was primarily active in 1997.

Task Force on Justice System Volunteers, to make recommendations regarding the maintenance and management of current volunteers and to work with the Dirigo Project and others undertaking specific volunteer development projects. Chaired by Pine Tree volunteer Hank Warren, the group completed its work by the end of 1997;

Task Force on Resource Sharing, to make recommendations regarding the ways in which the providers could reduce or eliminate certain costs which they have in common, including obvious fixed costs such as certain supplies, phone service, libraries, computers and related systems. A secondary purpose was to provide a forum for the creative exploration of other possibilities for efficient resource sharing such as new technologies. Chaired by corporate attorney Janis Cohen, this Task Force has been active through 1997 and 1998.

Early Accomplishments in LSC State Planning: The Task Force on New Structures was the first task force to be convened and it completed its work in late 1995. The Task Force focused on creation of the Maine Equal Justice Project, a new structure designed to deliver administrative and legislative advocacy services and to coordinate the administration of a "virtual law firm" proposal for impact litigation. At its meeting on

December 13, JAG endorsed the recommendation and encouraged IOLTA funding to support the new entity. Once the new entity was established with \$70,000 in IOLTA funding, its Director joined the Legal Services Response Team as a member in that planning body.

Both JAG and LSRT met throughout 1996. Judge Coffin and Chief Justice Wathen advocated the importance of the state planning process and Maine's response to the legal service crisis in public forums, including:

- A January 1996 address by Judge Coffin to the Cumberland County Bar Association, Maine's largest county bar association
- The February "State of the Judiciary" address by Chief Justice Wathen
- The Law Day celebration on May 1, including a keynote address by Judge Coffin

The Task Forces met and issued interim or final reports in the first nine months of 1996, periodically receiving further direction or guidance from JAG and LSRT, as appropriate. (Their specific work is described in more detail in the relevant sections below.)

Although not driven by a specific task force, the Maine Bar Foundation launched its own initiative to heighten support for the IOLTA program among Maine's banking community. The end result of this effort was a substantial increase in interest rates established on IOLTA accounts in most of the major banks, an accomplishment that has been sustained to the present day. Former MBF Executive Director Joanne D'Arcangelo deserves much of the credit for generating significant new IOLTA revenues.

In October 1996, Fall Forum II was convened to assess and coordinate efforts to enhance *pro se* access to the court system. Fall Forum II was structured as a multi-track event, providing interaction among the judicial branch, the legal service providers, the private bar and social service providers. Again, Judge Coffin provided a keynote address detailing the progress of the past year and suggesting the importance of better communication and collaboration.

One of the immediate outcomes of the Forum was publication of a list of all the organizations and entities involved in *pro se* litigant support. This list has been widely disseminated and is available over the Internet at <http://www.ptla.org/projects.htm>.

In the fall of 1996, work began on development of a new funding source for legal services. In early December, Chief Justice Wathen announced that he would support the dedication of a small increase in court fees and civil fines for legal services in Maine. JAG endorsed the proposal at its December meeting and provided significant support as the legislation developed.

In December 1996, JAG endorsed the creation of two new task forces and urged

the LSRT to undertake a thorough analysis of centralized/coordinated intake systems among the providers, provided some specific direction to the Bar Rules and *Pro Bono* Task Forces, and referred other specific projects to various entities, including the Maine State Bar Association, the VLP Advisory Committee and the Judicial Branch.

State Planning Activities and Accomplishments to the Present: In early 1997, much of the energy and effort of JAG and LSRT were directed at support of the filing fee initiative, LD 1003, "An Act to Amend the Maine Civil Legal Services Fund." Judiciary Committee Chair Richard Thompson and nine other legislators from both political parties sponsored the legislation. At its public hearing, no individuals spoke in opposition to the measure and favorable testimony was received from a diverse group of individuals and organizations, including the organized bar in the form of the Maine State Bar Association and Maine Trial Lawyers Association. The Legislation passed the Maine Legislature on May 1 and was signed by Governor King shortly thereafter.

At the request of the legal service providers, a Task Force on Resource Sharing was created in early 1997. Although it recognized a wide range of issues that might be appropriate areas for in-kind support or donations, the Task Force focused initially on the creation of a multi-tiered State Technology Plan. The plan set specific targets and was intended to insure that technology expanded limited staff resources to the greatest appropriate extent.

With special grant awards of \$50,000 in 1997 and over \$60,000 in 1998, the Maine Bar Foundation helped implement the new Technology Plan statewide, and leveraged over \$100,000 in additional funding support for that purpose. The five major providers were able to fully computerize their operations and improve their telephone systems dramatically. The Task Force is now looking at ways in which telephone costs could be lessened for the legal service providers, since such costs represent major expenditures in each provider's budget.

The "Coordinated Intake" working group of LSRT met regularly throughout 1997 and into 1998, issuing a preliminary report at the end of 1997. While that work is still ongoing, group discussions quickly helped clarify the variables which impact on client access to legal services and the steps in the process of obtaining legal assistance in Maine. That review prompted a number of internal changes within Pine Tree and the VLP's intake system, including creation of a new network to immediately transfer calls to the "right" office or project without further expense or effort by the caller.

With JAG approval, the *Pro Bono* Task Force focused its attention to the ways in which large law firms could contribute to the delivery of legal services. The direct result of this initiative was the establishment of a new public interest fellowship program named in honor of Judge Coffin, and supported with funding by the twelve largest law firms in Portland. The Coffin Fellowships allowed two new attorneys to be hired in September of

1998, with an exclusive focus on family law cases referred by the VLP on behalf of residents of Cumberland County.

The Justice System Volunteers Task Force met regularly in 1997. Following news of a successful grant application to create a Judicial Branch Volunteer Coordinator at the end of 1997, the Task Force was disbanded in January of 1998, although several of its members became leaders in the newly created Court Advisory Committee to assist the new Coordinator, in January of 1998.

With momentum from Fall Forum II, the Court itself seized the initiative in creating a new Family Division to handle family law matters and, in particular, to be more responsive to the needs of *pro se* litigants. Family court legislation was introduced at the same time as the "filing fee legislation" and was also enacted in May 1997. With input from an internal court planning committee, a system was designed to allow certain divorce and child custody cases to be handled by regional case management officers. The new system was implemented in May of 1998.

In December of 1997, Chief Justice Wathen issued a letter to all participants in Fall Forum II highlighting the major accomplishments of the year, as follows:

- Passage of the Civil Legal Services Funding Act, effective October 1997;
- Creation of the Family Division of the District Court;
- Simplification of court forms as a result of work by an internal court team;
- Hiring of a Volunteer Coordinator to assist in the development, recruitment, training and management of volunteers in the court system;
- Evaluation of the process by which individuals needing legal help reach the providers by the Access/Intake Committee;
- Preparation of an inventory of existing hardware and software used by the providers and development of a coordinated plan for maximizing the use of technology to reach Maine's underserved population, as well as to improve access to legal information and services. A grant from the Maine Bar Foundation has resulted in computer upgrades that will allow for interconnectivity among the major providers of legal services for the first time in the State.

JAG and LSRT have continued to meet in 1998, as have several of the Task Forces. Among the accomplishments of the year, described in further detail in the relevant Sections below, are the following:

- Creation of two Coffin Fellowships for family law on behalf of low-income residents of Cumberland County, administered by the Maine Bar Foundation and housed at Pine Tree Legal Assistance;
- Creation of a computerized cd-rom poverty law library for use by the providers,

funded by the MBF Fellows;
Allocation of \$100,000 in funding to MEJPartners to support two additional staff positions, following the report of the Impact Litigation Working Group, an *ad hoc* JAG committee;

Next Steps: In the past three years, state planning in Maine has generated a host of significant new services which have partially restored legal services lost in the funding cutbacks of 1995 B96. Much of the energy for these efforts has come from the leadership exerted by Chief Justice Daniel Wathen and by the planning entity he formed as the Justice Action Group with its own chair, Judge Frank Coffin. While no final decision has been made regarding the future of JAG or LSRT, no other entity in Maine currently exists which can replicate JAG's status in uniting the various perspectives of Maine's judicial and legislative branches, the private bar and the legal services providers on justice issues. Finally, the commitment of Maine's federal and state judiciary to preserving "justice for all" continues to underscore JAG directives with unique moral authority that would be difficult for any other group to exert.

III. SPECIFIC STATE PLANNING INITIATIVES

A. Intake, Advice and Referral

Background: The 1990 Report of the Maine Commission on Legal Needs contained several recommendations for improvements of intake systems in use by Maine's legal service providers. In response to this and subsequent recommendations in the 1993 Court Futures Commission report, the providers developed initiatives which included:

an annual "intake and referral conference" intended for intake staff at each provider organization, summarizing current services and eligibility criteria. The ongoing conferences have proved a cost-effective way to insure that provider staff and others remain aware of new programs, funding requirements and staffing changes.

A combined listing of "legal education materials" available from each provider organization, insuring that clients and others have access to the current legal education materials available through the various providers and state agencies.

The Commission on the Future of Maine's Courts also addressed the issue of legal services intake systems in its Report.

Impact of State Planning on Intake Systems: The 1996 Task Force on

Coordination and Effective Delivery of Services within Existing Resources included some review of intake systems in its wide-ranging discussions, but its final report did not highlight those issues. After Fall Forum II, the JAG created the "Intake/Access Working Group" to address the perception that initial access to providers might be improved.

Under the direction of Portland attorney Kathryn Ainsworth, the Intake Group began by obtaining written summaries of each provider's current intake system, as well as a "flow chart" tracking how new clients access the system. The providers then conducted a survey of individuals seeking assistance from them in the fall of 1997 in order to understand the extent to which callers reach the "right" provider at the outset, or are "bumped" from one provider to another. The survey asked the following questions:

- How did the caller hear about the provider's services
- Did the caller try any one else before calling this provider
- How easy was it to contact the provider
- Did the caller encounter a busy signal when they called
- What form of service did the caller receive from the provider
- Did the provider refer the caller elsewhere

The survey results and subsequent data gathering by the providers were presented to JAG in late 1997, including the following significant findings:

- Only 10% of callers experience difficulty in reaching a provider; 61% are able to reach the appropriate provider on their first call;
- Almost 58% of all callers receive some service from the provider they contact and only 25% are referred to another provider for assistance (excluding the Clinic);
- Although the providers have fewer financial and staff resources, they are handling roughly the same number of intake calls as were reported in the 1990 Legal Needs Study.

The survey also offered interesting insights into the ways in which callers identify a resource for their legal problems. The primary source of information prompting calls to Pine Tree or LSE was "word of mouth" in the form of referrals from friends, family members and others. In contrast, the primary source of referrals to the VLP was other legal service providers, especially Pine Tree. The "phone book" was a significant referral source only for the law school clinic and, to some extent, LSE.

During 1998, the Intake Group has convened several focus groups of private attorneys around Maine to gather their perceptions of the access issue and to understand how they utilize the provider network in making referrals of individuals in their communities. A final report on intake issues is anticipated by year's end.

Current intake, advice and referral system: At present, each of Maine's legal service

providers maintains their own distinctive intake system, reflecting the differing needs of the client populations they serve. However, PTLA, LSE and VLP have some common elements, including the use of TDD lines for hearing-impaired clients, and a telephone interpreter service for clients with limited English proficiency.

Pine Tree: Over 50,000 people each year use Pine Tree's decentralized intake system, which includes 6 local intake numbers around the State, as well as a single toll-free number for the Farmworker and Native American Units. The four major offices are linked by a telephone frame relay system that allows calls to be transferred easily from one location to another. Callers who are unable to get through during regular hours can leave messages in voicemail which are generally returned within 24 hours. "Walk-in" assistance is available at all offices and through the courthouse assistance projects which Pine Tree administers in southern Maine. In addition, special grants and contracts allow some domestic violence shelters, State agencies and certain organizations to bypass the intake system in order to refer clients directly to Pine Tree advocates.

VLP: The VLP receives over 10,000 requests for help per year over six incoming lines, including two 1-800 lines. Calls are handled by community volunteers who provide immediate information and assistance to the caller under the supervision of VLP staff; roughly twenty percent of calls are referred by attorney volunteers to members of the private bar for acceptance on a *pro bono* basis. The new telephone frame relay system (funded in part by an MBF Technology grant) will expand access to VLP services by allowing local Pine Tree offices to transfer callers into the VLP system, rather than requiring a second call to the VLP on outside lines.

LSE: For several years, LSE has relied primarily on a federally funded "hotline" for its intake system. The hotline offers four incoming toll-free lines and handles approximately 14,500 calls per year from around the State. An LSE employee performs an eligibility check; eligible clients are then called back by Hotline staff, usually within 48 hours. Hotline staff provide assistance to most of the callers (including simple advice, brief services and more extended counseling); those needing extended representation are referred to the regional LSE offices or to its reduced fee panel of private attorneys. A small number of clients access LSE's services as walk-ins at its area offices that are co-located with the area agencies on aging.

Clinic: Unlike the other providers, the Clinic's services are limited to clients within a roughly one-hour drive of its Portland location. The vast majority of requests for assistance at the Cumberland Legal Aid Clinic in Portland are by local telephone, although occasional walk-ins occur. If the Clinic is not accepting new cases, the caller is given an appropriate referral to another provider or social service agency. The Clinic does not provide simple advice or brief services to callers whose cases will not be accepted for representation.

MEJP/MEJP: The MEJProject's legislative docket and the MEJPartners' administrative docket are generated by their representation of a statewide low-income group with over 1,000 members. In addition, MEJP receives miscellaneous requests for help that are generated by the outreach work done by staff or referral from legal service and social service providers and others. Maine Equal Justice Project and the Maine Equal Justice Partners share a telephone number; staff estimate that roughly 520 callers per year seek assistance from them.

Recent improvements in Maine's intake, advice and referral systems: One of the most significant outcomes of the Intake Group's deliberations was a list of intake/access goals shared by Maine's legal service providers,

System goals:

- Provide some assistance to every person who contacts a legal services office for help with legal problems;
- Monitor trends in legal problems on a local or statewide level which may suggest the need for further systemic legal advocacy or for changes in legal services delivery or the administration of justice;
- Insure individual intake systems complement each other and that, collectively, these intake systems form a seamless web supporting low-income and needy elderly clients with legal needs;
- Avoid "intake gridlock" by insuring that the demands of processing intake do not overwhelm programs' ability to provide in-depth assistance and extended representation to eligible clients.
- Minimize the number of clients who are barred from accessing legal services because of conflicts problems;

Contact goals:

- Give the caller an opportunity to have someone/an experienced legal services advocate listen attentively to the problem(s) the caller is experiencing;
- Insure that no one experiences barriers in accessing legal services because of system design issues (lack of toll-free access, busy signals, limited hours of services, voicemail) or because of the individual's age, geographic location, disability, language, or other special status;
- Determine client eligibility for services pursuant to various funding sources and special grants/contracts.
- Refer to another resource when the client's legal problems cannot be appropriately addressed by the legal service program contacted, or where the client has a non-legal problem for which other resources are available.
- Identify those clients whose legal problems are priorities for the legal service programs contacted and appropriately assess the level of assistance needed for each client;

Determine who the client is, particularly important when the caller is not the client (especially an important goal for LSE);

Services goals:

- Respond quickly to eligible client needs for legal assistance, including immediate advocacy where an emergency/crisis is involved;
- C Provide *pro se* assistance, including client education materials, coaching by phone or in person, and other supportive services to clients who may be able to advocate on their own;
- C Provide more personalized high quality brief service, including follow up phone calls, correspondence and negotiation for clients who may not be able to advocate on their own;
- C Identify cases appropriate for extended representation by that provider;
- C Identify issues other than the caller's presenting problem which may benefit from each provider's expertise and range of services;

The provider survey of clients revealed that the greatest overlap in client services occurred between Pine Tree and the VLP: a significant number of individuals called Pine Tree first when they really needed assistance from the VLP and *vice versa*. In these situations, staff would advise the caller to hang up and contact the "right" office. Anecdotal evidence suggested that many callers did not follow through and that others experienced difficulty accessing the VLP's services.

This suggested the need for a unified intake system linking Pine Tree offices and the VLP. With partial funding from the MBF through its Technology Grant, the telephone and computer equipment necessary to create this system was installed in May of 1998. Detailed protocols for transfer of specific types of calls are now being finalized for PTLA and the VLP, in order to support full use of this technology in the future. The frame relay system preserves the advantages of multiple points of access to the intake system (with local staff who are expert in the needs of their community and the resources available to callers), while insuring that most individuals need make only one call to access legal help. Maine may be one of the first States to implement such a system.

LSE has also led an initiative to create "one-stop shopping" over the telephone for elderly Mainers. Using call transfer technology, elderly Mainers who call LSE but are more appropriately helped elsewhere can be directly transferred to the appropriate agency. The network will include all of Maine's aging network, including the Area Agencies on Aging, Adult Protective Services, and the Long Term Care Ombudsman Program, as well as other elder service providers

Next steps: The final report of the Coordinated Intake Task Force is anticipated before the end of 1998. The specific papers which have been developed to date in

connection with the work of the "Intake Group," including individual provider summaries of their intake systems, a statewide "flow chart" of intake, survey results, and budgetary information are available upon request.

B. Technology

Background: Until the early 1990's, all legal service providers in Maine relied primarily on secretarial staff with individual computers or typewriters for word-processing needs. Case management was driven by paper systems, although computer programs were used for some case statistics. Most legal research was dependent on the contents of the local provider's in-house libraries and the books available at the county courthouse. The 1990 Legal Needs Report contains no references to the ways in which technology could assist either the provider organizations or their clients.

By the time the Court Futures Commission issued its report in 1993, this was changing. The Report urged the judicial branch to develop a master plan for the use of technology and addressed some of the ways in which technology could assist litigants as well as judicial branch employees.

Recognition of the ways in which technology could leverage limited resources and the increased affordability of computers prompted both Pine Tree and the VLP to review their technology systems when faced with major staffing cutbacks in 1993. A major corporation in the Portland area (UNUM) and the Portland law firm of Pierce Atwood offered their in-house computer experts to help Pine Tree and the VLP develop their first technology plan. It included local area networks in each local office and desktop computers for all employees to support word processing and case management.

The Maine Bar Foundation provided seed money for the acquisition of computer technology at LSE in the early 1990's. In the mid-1990's, the Foundation also arranged for *pro bono* consulting services to the providers from a Portland-based computer expert, Craig Friedrich. The Clinic, in particular, benefited from Mr. Friedrich's expertise and support in the creation of its first local-area network.

At the same time, Maine began to invest substantial energy into the creation of a state Telecommunications Project to provide Internet access to all of its public libraries and school facilities around the State. By 1997, the dedication of certain funds from major utilities in Maine had made this vision a reality, allowing most residents to go to local libraries and "log on" to the internet and receive email.

Today, all of Maine's legal service providers (PTLA, VLP, LSE, and MEJP) have web sites providing information about their programs and offering legal education materials to the public. Since 1996, these sites have attracted over 300,000 "hits." Pine Tree has pioneered the use of its web site for client education materials: roughly 60,000

files of client education materials are downloaded annually.

Creation of a State Inventory of Projects, Resources and Organizations with a Connection to the Delivery of *Pro Se* Legal Services and Technology: In part because of the proliferation of those web sites and other technologically-based services, JAG asked the Task Force on Information and Technology in 1997 to create an inventory of services related to *pro se* support, and to identify gaps where resources are inadequate or non-existent. (A second charge to the Task Force involved the creation of a vision for the future use of these resources. This vision statement has not yet been finalized.) The inventory was completed in 1997 under the direction of William Wells, the Law Library Director at the University of Maine Law School.

The inventory lists the resources available, the format in which it may be found, and how to access the resource. The general categories include:

- Laws and regulations
- Court rules
- Cases
- Legal assistance
- Legal education
- Libraries
- Proposed projects
- Subject related materials

The second part of the report consists of an alphabetical listing of resources, providing a brief description of services and organizations, materials and locations of materials. The final section of the Report highlights gaps and areas for potential coordination, including the following:

- Better distribution of Superior Court decisions
- A current, central inventory of resources
- Easily accessible court information
- More accessible state agency rulings
- Better access to legal information and legal services
- Improvement cooperation and uniformity among the various branches of State government
- A fully integrated information system within the Court system
- Involvement of the State Court Library Committee in this project
- Construction of "pathfinders" to help people through the maze of resources to gain answers or have their issues resolved
- Electronic access to resources which offers meaningful assistance to users

Since the Report was issued, changes in the "inventory of resources" have occurred. It is

unclear whether the inventory will be maintained in future years.

Creation of a State Technology Plan: Serious work on a State Technology Plan linking all the providers began in earnest under the leadership of Janis Cohen in the context of the "Resource Sharing Task Force."

Its Preliminary Report notes that the goal for the Task Force was to achieve economies of scale wherever possible, consistent with the restrictions and unique service requirements of each provider. The Task Force agreed to develop an inventory of the telephone, computer and technology systems then in place at the providers, and to develop a blueprint for staged improvements to the current system. The blueprint was reviewed and affirmed by a panel of *pro bono* experts in these fields. The Plan envisions three levels of technology usage in Maine:

Level One: Goals are individual and group email for communicating and case brainstorming among staff at each provider, web access for legal research, shared brief banks and bulletin boards. Possible goals are shared CD-ROM law libraries, teleconferencing and video conferencing between office locations

Computer: Staff in each office location are connected on a local area network (LAN). As a result, all staff members at each provider have desktop access to the Internet for email and research either through individual modems or through a router connection on the LAN. Computer specifications are standardized throughout the program and support the standard operating platform of Windows 95. All legal service providers would move forward to a standardized word processing program in order to support transferability of files between providers.

Telephone: Each office location with sufficient staff has a phone system capable of messaging, call transfers, conference and speakerphones. Where staff constraints require it, voicemail with auto attendant phone answering is available.

Level Two: Goal is connectivity between office locations where a provider has multiple offices, allowing each provider to develop a single common set of tools and resources accessible to its staff, regardless of location.

Computer: a wide-area network (WAN) linking all offices and staff. The WAN would include a common database for conflicts checks, a shared law library, email, secure data sharing. Staff could work on briefs and pleadings together and share documents easily between locations. It might also permit videoconferencing and teleconferencing on behalf of staff or clients.

Telephone: Phone calls can be transferred between office locations to the

appropriate staff person or office without cost to the indigent client/caller, allowing intake operations to be staffed in different locations depending on staff coverage and expertise.

Level Three: All the legal services providers are connected electronically or over the internet, allowing them to share a common set of tools and resources accessible to their staffs, regardless of location. Assuming that program integrity and client confidentiality could be protected by appropriate measures, such a system would allow many of the economies of scale possible with a single merged program, while preserving the distinct character and services of Maine's five legal service providers.

The Preliminary Report also recognized an increasing need for in-house technical expertise and training capacity. While Pine Tree and the VLP have individuals with some expertise, their primary job responsibilities are in other areas, and LSE, MEJP and the Clinic have little or no in-house expertise. Training needs of the providers have been met, to the extent possible, with commercial training programs and through the use of paid consultants and more limited "one on one" assistance from the in-house staff. The report recommended that a more established relationship be formed with consultants in Maine that would insure that specialized assistance would be available when the providers needed it.

Progress to Date and Next Steps: In 1997, the Maine Bar Foundation made \$50,000 available to the providers to begin implementation of the State Technology Plan. This funding allowed LSE, MEJP and the Clinic to draw close to Level One status, through the acquisition of new computers, new telephone systems and related improvements. Because of their prior level of investment in this area, both Pine Tree and the VLP were close to Level One status before the grant and instead used their share of funds to support a statewide frame relay system consistent with Level Two status above.

In the winter of 1998, the MBF Fellows offered a one-time grant to support an experimental CD-ROM law library accessible over Pine Tree's frame relay system. This library became available in April and included Maine statutes, case law, and the ME Digest, 1st Circuit case law, a complete Code of Federal Regulations and U.S. Code Annotated, as well as the Supreme Court Reporter B a much better law library than was available at any Pine Tree location. The grant supported two user licenses for this library and WestLaw agreed that Pine Tree and VLP staff could access the system over the frame relay system on this basis. West also agreed that other providers could access the same system for the cost of an additional user license per agency.

In the Fall of 1998, the Maine Bar Foundation dedicated a second grant of over \$60,000 to further implementation of the statewide Technology Plan, bringing all of the providers to Level One status, and allowing Pine Tree and the VLP to move closer to Level Three.

C. Access to the Courts, self-help and preventive education

Background: From the beginning, Maine's legal service providers were involved in services for *pro se* litigants, recognizing that the providers would never have enough attorneys on staff to provide full representation for every person in need. By 1969, Pine Tree Legal Assistance was providing a variety of self-help pamphlets for its client population, on topics ranging from consumer rights to housing matters. Pine Tree became involved in the family law area in the early 1970's, culminating with the creation of Do Your Own Divorce in Maine in 1975. By the early 1990's, that book alone had gone through five editions and had grown from a small booklet of 70 pages to over 240 pages in length.

Both the Maine Commission on Legal Needs and the Commission to Study the Future of Maine's Courts addressed issues of access to the courts and *pro se* assistance. In particular, the Legal Needs Report called for the creation of courthouse assistance projects to assist *pro se* litigants with form completion and basic court procedures. With discretionary grant funding from the MBF, Pine Tree created a "Family Law Project" in 1990 which offered:

- A team of one attorney and one paralegal who provided self-help assistance to family law litigants via the telephone. This service was discontinued when the FLP lost its funding in 1993;
- Courthouse assistance projects using staff and volunteers to assist low-income family law litigants in completing court forms and understanding basic court procedures. The projects began in several courthouses in southern Maine using a FLP paralegal with volunteer assistance from lawyers, law students and others. It was expanded to include projects organized by two local legal secretary associations in Waterville and Bangor, as well as a program funded through a community action program in York County. The Pine Tree courthouse assistance projects are maintained with the help of a volunteer who staffs and coordinates the staffing of projects in 5 district courts.
- A telephone "helpline" operated to provide coaching assistance to *pro se* litigants in family law proceedings. This service was taken over by the VLP in 1993. Today, volunteer attorneys and law students provide this service every Wednesday evening to litigants who have been scheduled for "callback" assistance that week by the VLP staff.

Around the same time as the Futures Commission was doing its work, a new legislative mandate directed all state agencies and branches of government to become more customer-focused, as part of a new "total quality management" approach to

government. Having taken office in 1992, Chief Justice Wathen used this opportunity to highlight the responsibility of the Judicial Branch in promoting court access. He created several new internal planning groups, including court "teams" specifically focused on making court systems more user-friendly. Legal services staff were invited to participate on the "*Pro Se* Family Law" team, a group that continues to be active. Other teams addressed customer concerns in Maine's protection from abuse and protection from harassment proceedings, and provided review of court forms in general. These efforts continue to have a significant impact on expanding access to the courts, and enhancing self-help opportunities for low-income people.

Of course, many other organizations have also contributed significantly to public understanding and awareness of legal rights and issues. Among the most well-known are the "Bill of Rights" project of the Maine Civil Liberties Union, the work of EXCEL in educating public school students about the legal system, and several projects of the Maine State Bar Association (including annual publication of "On Your Own" for graduating seniors, and the "Tel-Law" project, which offers free recorded messages about different areas of law.) An inventory of printed self-help materials available from these and other organizations was done in 1991 and has been periodically updated by Pine Tree for use in its intake system.

Impact of State Planning Initiatives: Coordinated state planning in the wake of Fall Forum I and II led to two separate initiatives to expand access to the courts and improve self-help services. It has also encouraged the providers to continue their efforts to improve services in this area and provided the final impetus for the creation of an entirely new court system for handling family law litigation: the Family Division of the District Court.

Following Fall Forum I, JAG developed two separate task forces with shared responsibilities, the Task Forces on Bar Rules and on Court and Administrative Processes. The Task Forces met jointly in late January of 1996 and were subsequently consolidated: their first report emphasized the ways in which access to justice could be expanded through various forms of litigant assistance, the use of ADR, simplification of court procedures and forums, adding judgeships and promoting non-judicial decision making, and changes to bar admission and malpractice and immunity issues.

At the direction of JAG, these task forces subsequently focused on three initiatives: (1) the provision of legal coaches or advisors to work with *pro se* litigants in either courthouses or law offices and for administrative proceedings; (2) permitting advice-giving and in-court representation and support of low income clients in particular cases by non-lawyers; and (3) consideration of systemic changes in malpractice insurance policies and development of court-made or legislatively-mandated rules of immunity to protect lawyers and others who participate in such programs. Under the direction of departing law school professor Kinvin Wroth, the Task Force issued an interim report

dated May 28, 1996, outlining a proposal for a new three-tiered screening approach to be implemented in district courthouses around Maine and incorporating these ideas. Subsequent efforts by the Task Force focused primarily on the development of a legislative rule of immunity that was introduced and then withdrawn by its sponsor.

As noted earlier, the entire focus of Fall Forum II was the range and diversity of services available for *pro se* litigants. Since the gathering as a whole had highlighted the courthouse assistance projects and the potential role of volunteers in providing these services to low-income individuals, JAG established a new Task Force on Justice System Volunteers which met in 1997. The group surveyed the extent to which volunteers were currently being used by legal service providers and others to support access to the justice system, raised several issues regarding the role of non-lawyers in the delivery of services to low-income litigants, and was instrumental in shaping a successful grant application to create the new position of Judicial Branch Volunteer Coordinator, a position which was staffed in early 1998.

Perhaps most importantly, Fall Forum II coincided with the issuance of a report from the Committee on Non-adversarial Family Law Forums, recommending the creation of a new court structure to meet the needs of the predominantly *pro se* litigant involved in family law proceedings in the district courts around Maine. Participants in Fall Forum II endorsed the concept and Chief Justice Wathen seized that initiative to create a small working group on the new court structure, which helped to shape a legislative proposal submitted on behalf of the courts in January of 1997. The proposal called for the creation of a new system of case management officers (CMO's) who would function in many respects as judges, presiding over cases and issuing preliminary and final orders in matters involving child support and child custody. The legislation was approved in May of 1997 and the new system took effect a year later. Early reports indicate that the new system is much more responsive to the needs of *pro se* family law litigants than was possible in a traditional court setting. CMO's are able to both elicit information from litigants and make rulings on the basis of that information in a less intimidating setting. Eight CMO's now hear cases around the State, although litigants can opt out of the system and have cases heard by a judge if desired. The new system has also had the effect of increasing standardization and simplification of court forms.

Next steps: Planning is now underway for a comprehensive examination of the role of lawyers and nonlawyers in the provision of assistance to *pro se* litigants and other consumers in a November 1998 conference in Augusta. The conference is being sponsored by the Maine Bar Foundation, the Law School, the Maine State Bar Association and the Maine Trial Lawyers Association and will be available to participants free of charge.

Pine Tree and the Judicial Branch are developing an "interactive *pro se* project" to provide on-line assistance with form completion in divorce and protection from abuse

proceedings over the Internet. This service would be accessible from both the Pine Tree and Judicial Branch web sites by any computer with internet access, including those in Maine's public libraries and schools. It would allow individuals to generate the needed court forms, appropriately completed based on the information provided by the user.

Both Pine Tree and LSE have recently created new staff positions focused on coordinating their own agency services to *pro se* litigants. At Pine Tree, the position of *Pro Se*/ Client Education Coordinator has been shaped by the outcome of a winter 1998 evaluation of its written client education materials which Pine Tree conducted with the help of an outside evaluator. The new position will focus on standardizing and improving the ways in which staff and clients utilize Pine Tree's self-help materials, provide consistency in updating the most important materials, and provide ongoing evaluation and coordination of Pine Tree's services with those of other providers and the Courts.

At LSE, the position of Client Resource Coordinator will be responsible for expansion and improvement of LSE's legal information services, such as clinics, client education materials, outreach presentations and LSE's web site. Increasing these efforts while consolidating them in one position will help LSE disseminate the widest range of self-help material to the largest number of people in the broadest spectrum of mediums. This will promote self-advocacy where it is appropriate, in turn freeing up existing staff resources for those clients who cannot proceed without representation.

Since its inception, MEJP has provided extensive community education to low income individuals and social service providers around Maine. Together with its low-income client group, the Maine Association of Interdependent Neighborhoods, MEJP also publishes a quarterly newsletter that contains extensive information regarding people's rights and responsibilities with respect to the welfare, health care, low wage work, unemployment compensation and education and training. Most recently, MEJP, in concert with other community organizations, has received foundation funding for training low-income women to participate in the democratic process and is optimistic about receiving funding to reach out to assure eligible children and enrolled in Maine's new expanded Medicaid and "CubCare" programs.

D. Coordination of legal work, training, information and expert assistance

Background: Historically, much of the responsibility for coordinating legal work, providing training and ensuring the availability of expert advice was handled as an in-house responsibility of each legal services provider. The 1990 Legal Needs Report highlighted the importance of this area in both its findings and recommendations and, in subsequent years, several new initiatives were undertaken to address this area, including the following:

In-house provider trainings on various poverty law topics organized by staff at Pine Tree were extended to include staff at LSE;

MEJP has annually providing free training to legal service provider staff in order to update them on changes in health care and welfare law;
With funding from the Maine Bar Foundation, the Maine State Bar Association began offering free CLE programs to private attorneys willing to accept *pro bono* cases in areas of law most likely to involve VLP referrals;
The Maine Trial Lawyers Association signed formal agreements with both Pine Tree and LSE whereby their members could be recruited to participate on a co-counseling or mentoring basis in typical legal services cases, in order to share their trial expertise with legal services staff;
The Law School Clinic developed a relationship with the USM School of Forensic Psychiatry through which its Clinic student-attorneys could arrange for *pro bono* psychiatric evaluations in their cases;

Impact of State Planning: One of the underlying messages behind Fall Forum I and II was the need for improved coordination in a wide variety of settings. The force of this message was not lost on the legal service community, the Law School or the Maine Bar Foundation, and it led to a number of strengthened or new services in this area, including the following:

Expanded joint training between the providers, including a two day evidence training in March of 1998 which used donated services and staff from the Law School and *pro bono* faculty drawn from the private bar to sharpen trial skills of both Pine Tree and LSE staff attorneys; (a second training is planned for March of 1999)
A series of informal meetings involving various configurations of provider staff around specific practice issues or substantial law areas, in order to improve issue spotting and case strategies on behalf of each organization's client population;
A joint one-day staff retreat by Pine Tree and LSE in the summer of 1997 and under consideration for 1999;
Enhanced cooperation between the three community resolution centers and the legal service providers, with funding from the Maine Bar Foundation, in order to support cross-training of staff and improved referrals between the organizations involved;
Creation of a new Elder Law Clinic at the Law School as a one credit option for law students (offered in the fall of 1998);
The use of programwide email to promote better issue spotting and effective case strategies between legal services offices within provider organizations;
The creation of the Maine Bar Foundation poverty law library in CD ROM format to support improved legal research by provider staff;
The creation of a new automatic 25% discount for legal service employees attending CLE trainings sponsored by the Maine State Bar Association.

Next steps: The report of the “Working Group on Impact Litigation” recommended that the providers adopt new protocols for the referral of significant impact cases to the virtual law firm organized by MEJP. The JAG has asked each of the providers to develop formal protocols for the referral of appropriate cases to their respective organization by the end of 1998. Pine Tree and the VLP are also developing a very detailed internal protocol to standardize the assistance provided to their own clients. Pine Tree and the MSBA also hope to host another “intake and referral conference” in 1999 in order to update staff on changes in resources available for legal problems around the State.

Following press reports on the Coffin Fellowship initiative, members of some Portland-based accounting firms approached the VLP to express their interest in providing *pro bono* services to clients of the VLP and the other legal service providers in Maine. Staff efforts to organize and administer that new resource will be developed more fully in the coming months.

Pine Tree Litigation Director Hugh Calkins continues to provide staff leadership in this area. Together with representatives of all of the providers, he is exploring new ways in which the internet and email can be used to support shared brief banks, pleadings and other tools which would improve the delivery of legal services statewide. He is also working with the Law School to develop an improved version of the Evidence training for the spring of 1999 and on other in-house trainings which will be made available to all legal services staff in coming months.

E. Private attorney involvement

Background: Informal efforts by local bar associations and attorneys to meet the need for legal assistance by low-income Mainers predate the formation of any of the legal service providers in the State. Indeed, the original impetus for the incorporation of Maine’s first legal services provider in 1966 grew out of a conviction on the part of private attorneys that only a staff model could be truly responsive to those needs.

In 1983, the *pro bono* services in Cumberland County and elsewhere were merged into a new statewide Volunteers Lawyers Project. The specific impetus for its formation came from a new Congressional mandate to dedicate funds equivalent to a specific percentage of the LSC basic legal services grant to “private attorney involvement” in legal services to the poor. Originally set at 10% of the LSC basic grant, the PAI requirement quickly grew to its current level of 12.5% of the LSC basic grant.

The VLP was created as a joint project of Pine Tree and the Maine Bar Foundation, housed and staffed by Pine Tree at its Portland location, but with general oversight responsibilities given to the MBF. However, from the outset, the general public perception of the VLP has been that it is a freestanding program “owned and operated”

by Maine's private bar. That perception has helped to foster the VLP's extraordinary success in attracting over two-thirds of the private bar to participate in some fashion in its *pro bono* services. For the first 10 years of its operation, more than half of the VLP budget came from Pine Tree; since 1995, the Maine Bar Foundation has assumed the more significant role in funding the VLP. VLP uses the same eligibility criteria as Pine Tree and is subject to the same LSC restrictions; however, its priorities for case acceptance are quite different, reflecting both the different expertise of the private bar and the gaps in services available to low-income Mainers. In recent years, the VLP has handled between 8,000 - 10,000 calls/year for assistance and made between 1,200 and 1,900 referrals/year to participating private attorneys.

Despite the VLP's primary role as the organizer of *pro bono* services in Maine, other forms of *pro bono* service by private attorneys exist around the State. Many private attorneys, especially in Maine's smaller communities, continue to directly accept clients who cannot afford their services without ever requiring them to go through the screening process offered by the VLP. While the private bar has not developed a way to track or record these hours of *pro bono* service, significant anecdotal information about it is available.

The Maine State Bar Association through its Lawyer Referral and Information Service makes a more limited form of service possible. (LRIS) The service offers any individual the opportunity to get a half-hour of advice from a local attorney for a small fixed fee. In the first nine months of 1997, the Service made over 2,300 referrals to panel members around the State.

Since 1993, LSE has operated a reduced fee panel for individuals age 60 or over with certain types of legal problems, which cannot be handled by the LSE staff. The panel, which currently has over 70 members, is designed to serve older people who have incomes between 125% and 200% of the federal poverty level. Clients referred to panel attorneys are charged \$50/hour or a flat fee for certain types of cases (e.g., \$60 for a will and \$475 for a bankruptcy.) Despite the consistent growth of the panel, client demand outstrips available resources, especially in geographic areas such as western and northern Maine. LSE is currently undertaking to expand the panel in these areas, as well as in underrepresented practice areas.

Initiatives prompted by the State Planning Process: The first Fall Forum inevitably focused attention upon the major changes taking place in legal services in 1995. Members of the bar and the bench agreed that new ways of encouraging *pro bono* service must be developed and that access to justice must continue to for-income people even in those areas from which those funded by LSC were

Creation of MEJP. One of the task forces developed after the Fall Forum I, the New Structures Task Force, immediately convened to consider two proposals from concerned members of the private bar for creating a non-LSC funded entity to take

responsibility for activities that could no longer be accomplished by Pine Tree Legal Assistance. One such proposal involved the creation of an entity to provide administrative and legislative representation; the other proposed to create a “virtual law firm” of *pro bono* lawyers to take on class action and other restricted litigation. The two ideas were merged and the creation of the Maine Equal Justice Project was recommended to handle these functions. The JAG endorsed the recommendation and suggested that it be funded through IOLTA. The Maine Bar Foundation followed suit and funded the new organization with \$70,000.

Over the next year, over 35 lawyers signed up to participate in the “virtual law firm.” With very limited staff support, MEJP was able to pursue some significant cases. It soon became apparent, however, that more must be done;. The Justice Action Group created in 1998 the “Impact Litigation Working Group” to determine how to improve the impact litigation function. It recommended that the “virtual law firm” be staffed by a full-time experienced attorney and the MEJP also be provided with administrative support. Funding for this purpose has been allocated by the Maine Civil Legal Services Fund after this consensus building process and a litigation director has now been hired.

Work of the *Pro Bono* Task Force: As a result of its meetings in early 1996, the Pro Bono Task Force identified several different models of providing *pro bono* assistance which it felt could be effective in different parts of the State, recognizing that Maine would have different private bar capacities and different client needs in those various areas. The models initially identified were as follows:

Courthouse Lawyer of the Day, building on a model in use in Hancock County to handle criminal matters. The Hancock County Bar Association proposed to build on this model to provide assistance with *pro se* divorces, protection from abuse, forcible entry and detainer actions and foreclosures. JAG subsequently endorsed implementation of this idea and encouraged the Hancock County Bar Association to recruit other county bar associations to follow their lead. This idea has not been implemented to date, however.

Landlord/Tenant Panel, using private attorneys who had expressed a willingness to appear in court on pre-arranged days throughout the year in order to handle evictions on behalf of low-income tenants who were otherwise eligible for assistance from Pine Tree Legal Assistance. Clients would be referred to the Panel for *pro bono* assistance instead. JAG subsequently referred this idea to the VLP and it was implemented in Portland in 1996. Today, over 30 private attorneys participate in the landlord/tenant panel in Portland, a new panel has been created in Biddeford and one is contemplated in Lewiston.

Landlord/Tenant Mediation” using mediators who have expressed a willingness to provide *pro bono* assistance in order to provide either mediation on the

date of the eviction hearing or prior to it in order to resolve the dispute between the parties. (JAG subsequently referred this proposal to the Court ADR Committee for further study and disposition. While a court-sponsored program has not been implemented, local community mediation projects are willing to mediate in these disputes.)

“Subsidized housing foreclosures” using a panel of attorneys specially trained by Pine Tree to handle these matters, since the area of law is very specialized and not likely to be encountered by most private practitioners. JAG subsequently referred this idea to the VLP, but it has not been implemented to date.

In addition, Fall Forum I laid the groundwork for a new look at the role of Maine’s larger law firms in the delivery of services to low-income individuals. Three senior partners from Portland’s largest law firms were asked to consider potential models for service, particularly in the area of family law since those cases were becoming increasingly difficult for the VLP to refer out on a *pro bono* basis. They developed the idea of having the larger law firms fund public interest fellows who would accept the family law referrals from the VLP in their place. Their proposal evolved into the creation of two Coffin Fellowships for Family Law, funded by Portland’s twelve largest law firms as a three year commitment and administered by the Maine Bar Foundation. The first two Fellows were hired over the summer of 1998 and began work at the Portland office of Pine Tree in September.

Other initiatives encouraged directly or indirectly by State Planning: While the focus of the *Pro Bono* Task Force was specifically directed at the Coffin Fellowships, many other activities were developing in response to the changing landscape of legal services delivery which were directly or indirectly driven by the State Planning process, including the following:

The Immigration *Pro Bono* Panel: Because the nearest legal service providers with immigration expertise were in Massachusetts, the VLP sought and received a small competitive grant from the American Bar Association in 1995 to create a new panel of private attorneys able to assist non-U.S.citizens with their immigration needs. Following the imposition of the new LSC service restrictions, the VLP severed its connection with the Panel, and members of the Panel assumed full responsibility for it. In 1998, the Panel received some funding from the Maine Bar Foundation to support its intake and litigation services.

The Externship Program at the University of Maine School of Law: Conceived by law students, law school faculty and the private bar, the goal was to offer law students the change to serve as apprentices with both a legal services provider and a private law firm, giving them first-hand experience in the practice of

law. The program was launched as an eighteen month pilot project in the fall of 1997, allowing third year law students to receive an entire semester's worth of academic credit by splitting a 40 hour work week between a legal service provider and a private law firm in Portland, and by participating in a legal seminar. Two Portland law firms and Pine Tree have participated in the program as host employers, and five students have taken advantage of the new program, including one now clerking for the Chief Justice. The Law School is now reassessing this program.

York County Judicare Project: Pine Tree received a small discretionary grant from the Maine Bar Foundation to support a new judicare program with entry level private attorneys in York County, in the hopes that the payment of a small flat fee would support those attorneys' participation in VLP referrals of contested family law cases on behalf of victims of domestic violence. The initial recruitment drive in the Spring of 1998 yielded no participants. The project is under review with the hope that changes may result in full implementation.

Next steps: Both the legal service providers and the Maine Bar Foundation continue to explore ways to strengthen *pro bono* services in Maine. Most members of the *Pro Bono* Task Force became part of a new Coffin Fellowship Advisory Committee (also chaired by Portland attorney Bill Harwood) which is now considering ways to recruit additional law firm participation in that model of service delivery.

In the fall of 1998, the Maine Bar Foundation, Maine State Bar Association, Maine Trial Lawyers Association and the Law School jointly sponsored a day-long symposium on the practice of law which highlighted a number of issues around *pro bono* services, including the general question of "unbundling" legal services in order to encourage service to more needy clients. The original impetus for the symposium came from Fall Forum I and II; the program identified a wide range of perspectives and possibilities for future *pro bono* and nonlawyer involvement in legal services. It is not yet clear how JAG and LSRT will organize and encourage future discussions related to the program.

F. Resource development

Background: Until the issuance of the Report of the Maine Commission on Legal Needs, there was a widespread assumption that each provider organization was responsible for its own fundraising and resource development. There was little coordination and only occasional collaboration around fundraising initiatives, with no public awareness of the funding difficulties confronted by the various providers.

The Legal Needs Report changed that environment. Under the leadership of Senator Muskie, the Maine Legislature in 1991 created a new statutory vehicle to support

legal services, the Maine Civil Legal Services Fund, although no specific revenue source was identified to support the new Fund.

Largely as a result of the work of the Maine Bar Foundation, significant new funders were attracted to support legal services. A three year "Rural Access Project" provided the first-ever opportunity for Pine Tree, LSE and the Clinic to work collaboratively on a new proposal with funding generated from several Maine foundations with no prior experience of legal services programs.

Also as a result of the heightened support for legal services in the wake of the 1990 Legal Needs Report, both Pine Tree and LSE were able to strengthen their own annual fundraising campaigns, even though the campaigns themselves predated the Report. The Legislature also was persuaded to resist major cutbacks in appropriation support for the two providers when the State experienced its own budget crisis in 1992.

The Maine Bar Foundation also undertook a major campaign to convert Maine's voluntary IOLTA program to an "opt out" program, a change which took effect in 1994 and which had the effect of increasing participation in the program to almost ninety percent.

By the fall of 1995, planning was also underway at Pine Tree to create a new annual fundraising event in honor of Senator Muskie's role in supporting legal services. In agreeing to lend his name to this event, the Senator suggested that the proceeds be used to support the other legal service providers as well and the planning group primarily responsible for the dinner, the Friends of Pine Tree, agreed to this change. The first dinner was held in May of 1996, just two months after Senator Muskie's death, and generated over \$25,000 for legal services. In each succeeding year, the dinner has become more successful and, in 1998, generated \$44,500 for civil legal services in Maine.

Impact of the LSC State Planning Process: Following the first Fall Forum in 1995, both a Coalition to address the Maine Legislature and a Private Fundraising Task Force were created with some responsibilities for resource development on behalf of the providers, recognizing the potential loss of over \$1 million in current funding for legal services in Maine.

At its initial meeting, the Private Fundraising Task Force emphasized the importance of a legislative initiative to seek new funding described below and offered support for a range of other potential fundraising ideas which would be organized under the auspices of the Maine Bar Foundation as well as by the providers. JAG subsequently encouraged the Task Force to broaden its membership and to consider enlisting a development professional to assist the task force in exploring possibilities for a combined/coordinated appeal program for the legal service providers. However, the task force was unable to sustain momentum and was disbanded by the end of 1996.

The idea of creating a legislative solution to the State's funding crisis was raised in several different forums and became a joint effort of both the Fundraising Task Force and the Legislative Coalition. At their request, JAG endorsed a proposal to seek a direct legislative appropriation of \$250,000 in funding to partially offset funding declines at both Pine Tree Legal Assistance and Legal Services for the Elderly. Members of JAG subsequently met with legislative leadership and Governor King to discuss the proposal and urge its passage. While the specific proposal ultimately failed because of resistance from both the Legislative and Executive branches, it served to create a heightened awareness of the funding crisis in both bodies and helped establish the groundwork for introduction of a second, successful legislative initiative in 1997.

The idea of using a filing fee surcharge to support legal services had been discussed within JAG in early 1996, but had not received an enthusiastic response. Using the resources of the ABA-sponsored Fundraising Project, the providers developed a comprehensive briefing paper on the ways in which other States had utilized a filing fee surcharge to support legal services and the ways in which such a proposal might work in Maine. The Chief Justice ultimately threw his personal support behind the proposal and the JAG endorsed the concept in late 1996. Legislation amending the Maine Civil Legal Services Fund to receive revenues from a small flat fee increase in court filing fees and civil infractions was introduced in January of 1997 by State Representative Richard Thompson and other sponsors and was approved in May. The legislation took effect in October of 1997, and proceeds from the Fund began to be distributed in January of 1998.

A three-person commission appointed by the Chief Justice administers the Fund. For calendar 1998, the Commissioners adopted a joint proposal from the five legal service providers on a funding allocation of anticipated revenues, which are distributed quarterly. The Commission recently announced its intention to adopt a similar proposal for calendar years 1999 and 2000. In the first year, the Fund will have distributed \$613,458 to the five legal service providers. The Fund is expected to distribute above \$700,000 annually.

Among the other initiatives which have been directly or indirectly encouraged by the State Planning process in the recent past are the following:

As noted earlier, starting in 1996, the Maine Bar Foundation campaigned to encourage substantial increases in the interest rates charged on IOLTA accounts by Maine's largest banking institutions. Many of those banks increased their rates by more than one full percentage point as a result. Monthly revenue from IOLTA sources is now at its highest point ever in Maine; the Foundation now estimates that this source will generate over \$864,000 in income in the grant year beginning October 1, 1998.

A successful law school campaign to fund a new part-time faculty position in the Law School Clinic, in order to make up staffing lost as a result of earlier

- funding cutbacks;
- The creation of the externship program described above. The program utilized an adjunct faculty supervisor whose position was supported by funds from the private firms. (It is unclear whether this program will continue in its current form in the future.)
- The creation of a new provider with an urgent mission and extremely limited staff resources (MEJP) has attracted new funding from a range of foundations and others who have been traditionally less interested in the work of Maine's more established and larger providers;
- C The creation of the Coffin Fellowships, funding two full-time attorneys to handle family law referrals from the VLP on behalf of low-income residents of Cumberland County.

Next steps: The providers continue to meet informally to discuss resource allocation issues and fundraising needs. The Maine Bar Foundation has also expressed interest in finding ways for IOLTA grants to leverage funding from other sources, as have the Commissioners of the Maine Civil Legal Services Fund.

G. System Configuration

Because Maine has only one LSC-funded program, Pine Tree Legal Assistance, it was not requested to examine the general issue of system configuration between the various providers as part of the LSC mandate regarding state planning. Nonetheless, there has been ongoing interest in this issue, both within the provider community and at JAG and LSRT. An informal series of meetings in the summer of 1997 under the heading "Justice in Maine: What & How" highlighted some of these issues. The call for creation of the "impact litigation" working group grew out of those discussions and its final report made a persuasive case for increased resources at MEJP in order to support the Partners' mission. In response, the providers developed a new joint proposal for allocation of funding from the Maine Civil Legal Services Fund which gave MEJP the funding suggested by the "impact litigation" group as necessary for staffing of its mission.

Past history suggests that both the providers themselves and the individuals and entities involved in state planning will continue to explore ways to realize further improvements in the service delivery system of legal services for low-income and needy elderly Mainers.

H. THE FUTURE

The legal service providers have been discussing a number of issues that warrant future attention from the larger community concerned with Maine's civil justice system.

Some of these issues may be appropriate for further action by JAG or LSRT; others are perhaps better directed to individual providers or organizations such as the Maine Bar Foundation:

Unbundling of legal services: Help with legal forms, focused advice on a specific point, and coaching of *pro se* litigants are all forms of “unbundled” service which would be useful. However, given the November symposium discussion, some formal review and sanctioning of these different types of service is probably needed to create a comfort level among the bar. A revitalized task force that includes Symposium participants Jim Bowie and Jeff Thaler would be a possible starting point.

Non-lawyer assistance to pro se litigants: The November symposium also suggested the importance of addressing this issue. The goal would be a substantial, long lasting accomplishment to create an appropriate environment in which programs such as the Waterville Legal Secretaries Project and the domestic violence advocates can flourish and multiply while adequately protecting consumers. A court-based team or task force that included consumers and nonlawyers could complement the lawyer-focused review underway by the MSBA.

Making the court/administrative systems easier to use by consumers: Both Pine Tree and LSE have recently created staff positions focused on *pro se* assistance to their respective client populations. Given the dominance of unrepresented litigants at the District Court level, there may be additional opportunities to assist the courts in making their forms and procedures more “user-friendly.” Except with respect to the handling of unemployment compensation appeals, there has been little effort focused on making administrative systems more accessible to *pro se* litigants.

Addressing Legal Needs in Rural Areas: One of the few areas in which the 1990 Legal Needs Study may need updating is with respect to the needs of individuals in rural areas. The LSE hotline clearly benefited those clients; further review is needed to assess whether other technologies (the Internet, video conferencing, etc.) can increase local access to legal services. There are a number of experiments underway at the providers (including the Penquis Law Project) which should be inventoried and shared.

Fundraising: The Maine Bar Foundation has indicated interest in developing a planned giving campaign, which might be broadened to include the legal service providers. (None of the providers currently operate such a campaign.) Given the range of different fundraising appeals underway which are directed at Maine attorneys and relate to legal services, it also may be worthwhile to

inventory those efforts. Rather than focusing on the impact of such requests on the individuals solicited, the review could focus on whether a joint campaign would actually increase funds raised in support of direct legal services. Finally, past history demonstrates that the Maine Bar Foundation can facilitate funding from private foundations which individual providers could not leverage as individual programs. The Foundation has not been engaged in this type of fundraising since the Rural Access Project, but the providers would undoubtedly welcome its involvement in the future.